lies. The proceedings were commenced *ex parte* and service was made on the Union of Soviet Socialist Republics after such attachment by publication pursuant to order of court under the provisions of Section 232-a of the New York Civil Practice Act and Rule 52 of the New York Rules of Civil Procedure. The Union of Soviet Socialist Republics not having made an appearance, a default judgment was entered by the New York Supreme Court, Westchester County, on September 29, 1955 for the total amount of $77,154.66.

"On or about October 21, 1957, Elizabeth R. Weilamann and John J. McCloskey, Sheriff of the City of New York, jointly commenced an action or proceeding in aid of attachment against the Chase Manhattan Bank, in the New York Supreme Court, Westchester County, to recover from the Chase Manhattan Bank from the funds previously attached the sum of $95,074.68. This action is now pending before the New York Supreme Court, Westchester County, New York.

"It appears that the extraordinary provisional remedy of attachment in New York under Article 55 of the New York Civil Practice Act serves two purposes: (1) a jurisdictional purpose and (2) a security purpose.

"Any action or special proceeding in aid of the attachment, either by the sheriff alone, or jointly by the plaintiff and the sheriff, for the purpose of obtaining actual possession of levied property, has for its primary and essential purpose the satisfaction of any judgment that may be obtained against the defendant in the action. This stage of the proceedings, although emanating from the original warrant of attachment and levy of the property, in effect ultimately constitutes execution against the property of the defendant which is separate and distinct from the prior jurisdictional purpose involved earlier in the proceedings.

"The Department has always recognized the distinction between 'immunity from jurisdiction' and 'immunity from execution'. The Department has maintained the view that under international law property of a foreign sovereign is immune from execution to satisfy even a judgment obtained in an action against a foreign sovereign where there is no immunity from suit.

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"As you will recall there is precedent for not permitting execution of a judgment obtained in a proceeding when the foreign sovereign has consented to suit. *Dexter and Carpenter, Inc.* v. *Kunglig Jarnvagsstyrelsen*, 43 F.2d 705 (2d Cir., 1930); followed in *Bradford* v. *Chase National Bank*, 24 F. Supp. 28, 38 (D.C.S.D.N.Y. 1938). Where the foreign sovereign has not submitted to the jurisdiction of the court it would be an *a fortiori* case.

"The Department is of the further view that even when the attachment of the property of a foreign sovereign is not prohibited for the purpose of jurisdiction, nevertheless the property so attached and levied upon cannot be retained to satisfy a judgment ensuing from the suit because, in the Department's view, under international law the property of a foreign sovereign is immune